

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 21, 2013

AMENDED IN SENATE MAY 1, 2013

AMENDED IN SENATE APRIL 16, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 491

Introduced by Senator Hernandez

February 21, 2013

An act to ~~amend Sections 2835.5, 2835.7, 2836.1, 2836.2, and 2836.3~~ *of add Section 2835.3 to the Business and Professions Code, relating to healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 491, as amended, Hernandez. Nurse practitioners.

Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurse practitioners by the Board of Registered Nursing. ~~Existing law requires an applicant for initial qualification or certification as a nurse practitioner who has never been qualified or certified as a nurse practitioner in California or in any other state to meet specified requirements, including possessing a master's degree in nursing, a master's degree in a clinical field related to nursing, or a graduate degree in nursing, and to have satisfactorily completed a nurse practitioner program approved by the board.~~ Existing law authorizes the implementation of standardized procedures that authorize a nurse practitioner to perform certain acts, including, among others, ordering durable medical equipment, and, in consultation with a physician and surgeon, approving, signing, modifying, or adding to a plan of treatment

or plan for an individual receiving home health services or personal care services. *A violation of those provisions is a crime.*

~~This bill would revise these provisions by deleting the requirement that those acts be performed pursuant to a standardized procedure or in consultation with a physician and surgeon. The bill would also authorize a nurse practitioner to perform specified additional acts, including, among others, establishing physical diagnoses and prescribing drugs and devices. The bill would require that, on and after July 1, 2016, an applicant for initial qualification or certification as a nurse practitioner hold a national certification as a nurse practitioner from a national certifying body recognized by the board.~~

This bill would authorize a nurse practitioner to perform those acts and certain additional acts without physician supervision if the nurse practitioner meets specified experience and certification requirements. The bill would require a nurse practitioner to refer a patient to a physician and surgeon or other licensed health care provider under certain circumstances, and would require specified nurse practitioners to maintain a current list of licensed health care providers most often used for the purposes of obtaining information or advice. The bill would also require a nurse practitioner practicing under these provisions to maintain professional liability insurance, as specified. Because a violation of those provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2835.3 is added to the Business and
- 2 Professions Code, to read:
- 3 2835.3. (a) Notwithstanding any other provision of this
- 4 chapter, a nurse practitioner who holds a certification as a nurse
- 5 practitioner from a national certifying body may practice under
- 6 this section without physician supervision if the nurse practitioner

1 *meets the requirements of this article and one of the following is*
2 *met:*

3 *(1) He or she has practiced under the supervision of a physician*
4 *for two years or 4160 hours and is practicing in one of the*
5 *following:*

6 *(A) A clinic, health facility, or county medical facility.*

7 *(B) An accountable care organization, as defined in Section*
8 *3022 of the federal Patient Protection and Affordable Care Act*
9 *(Public Law 111-148).*

10 *(C) A group practice, including a professional medical*
11 *corporation, another form of corporation controlled by physicians*
12 *and surgeons, a medical partnership, a medical foundation exempt*
13 *from licensure, or another lawfully organized group of physicians*
14 *that delivers, furnishes, or otherwise arranges for or provides*
15 *health care services.*

16 *(2) He or she has practiced under the supervision of a physician*
17 *for at least three years or 6240 hours.*

18 *(b) Notwithstanding any other law, in addition to any other*
19 *practices authorized in statute or regulation, a nurse practitioner*
20 *practicing under this section may do any of the following:*

21 *(1) Order durable medical equipment. Notwithstanding that*
22 *authority, nothing in this paragraph shall operate to limit the*
23 *ability of a third-party payer to require prior approval.*

24 *(2) After performance of a physical examination by the nurse*
25 *practitioner, certify disability pursuant to Section 2708 of the*
26 *Unemployment Insurance Code.*

27 *(3) For individuals receiving home health services or personal*
28 *care services, approve, sign, modify, or add to a plan of treatment*
29 *or plan of care.*

30 *(4) Assess patients, synthesize and analyze data, and apply*
31 *principles of health care.*

32 *(5) Manage the physical and psychosocial health status of*
33 *patients.*

34 *(6) Analyze multiple sources of data, including patient history,*
35 *general behavior, and signs and symptoms of illness, identify*
36 *alternative possibilities as to the nature of a health care problem,*
37 *and select, implement, and evaluate appropriate treatment.*

38 *(7) Establish a diagnosis by client history, physical examination,*
39 *and other criteria, consistent with this section.*

40 *(8) Order, furnish, or prescribe drugs or devices.*

1 (9) Refer patients to physicians or other licensed health care
2 providers as provided in subdivision (c).

3 (10) Delegate tasks to a medical assistant that are within the
4 medical assistant's scope of practice.

5 (11) Perform additional acts that require education and training
6 and that are recognized by the nursing profession as proper to be
7 performed by a nurse practitioner.

8 (12) Order hospice care as appropriate.

9 (13) Perform procedures that are necessary and consistent with
10 the nurse practitioner's education and training.

11 (c) A nurse practitioner shall refer a patient to a physician and
12 surgeon or another licensed health care provider if a situation or
13 condition of the patient is beyond the nurse practitioner's education
14 or training.

15 (d) A nurse practitioner described in paragraph (2) of
16 subdivision (a) shall maintain a current list of licensed health care
17 providers most often used for the purposes of obtaining information
18 or advice.

19 (e) A nurse practitioner practicing under this section shall
20 maintain professional liability insurance that is appropriate for
21 his or her practice setting.

22 (f) Nothing in this section shall do either of the following:

23 (1) Limit a nurse practitioner's authority to practice nursing.

24 (2) Limit the scope of practice of a registered nurse authorized
25 pursuant to this chapter.

26 (g) The board shall adopt regulations by September 1, 2014,
27 establishing the means of documenting completion of the
28 requirements of this section.

29 SEC. 2. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

38 ~~SECTION 1. The Legislature finds and declares all of the~~
39 ~~following:~~

1 ~~(a) Nurse practitioners are a longstanding, vital, safe, effective,~~
2 ~~and important part of the state's health care delivery system. They~~
3 ~~are especially important given California's shortage of physicians,~~
4 ~~with just 16 of 58 counties having the federally recommended ratio~~
5 ~~of physicians to residents.~~

6 ~~(b) Nurse practitioners will play an especially important part in~~
7 ~~the implementation of the federal Patient Protection and Affordable~~
8 ~~Care Act, which will bring an estimated five million more~~
9 ~~Californians into the health care delivery system, because they~~
10 ~~will provide for greater access to primary care services in all areas~~
11 ~~of the state. This is particularly true for patients in medically~~
12 ~~underserved urban and rural communities.~~

13 ~~(c) Due to the excellent safety and efficacy record that nurse~~
14 ~~practitioners have earned, the Institute of Medicine of the National~~
15 ~~Academy of Sciences has recommended full independent practice~~
16 ~~for nurse practitioners. Currently, 17 states allow nurse practitioners~~
17 ~~to practice to the full extent of their training and education with~~
18 ~~independent practice.~~

19 ~~(d) Furthermore, nurse practitioners will assist in addressing~~
20 ~~the primary care provider shortage by removing delays in the~~
21 ~~provision of care that are created when dated regulations require~~
22 ~~a physician's signature or protocol before a patient can initiate~~
23 ~~treatment or obtain diagnostic tests that are ordered by a nurse~~
24 ~~practitioner.~~

25 ~~SEC. 2.—Section 2835.5 of the Business and Professions Code~~
26 ~~is amended to read:~~

27 ~~2835.5. (a) A registered nurse who is holding himself or herself~~
28 ~~out as a nurse practitioner or who desires to hold himself or herself~~
29 ~~out as a nurse practitioner shall, within the time prescribed by the~~
30 ~~board and prior to his or her next license renewal or the issuance~~
31 ~~of an initial license, submit educational, experience, and other~~
32 ~~credentials and information as the board may require for it to~~
33 ~~determine that the person qualifies to use the title "nurse~~
34 ~~practitioner," pursuant to the standards and qualifications~~
35 ~~established by the board.~~

36 ~~(b) Upon finding that a person is qualified to hold himself or~~
37 ~~herself out as a nurse practitioner, the board shall appropriately~~
38 ~~indicate on the license issued or renewed, that the person is~~
39 ~~qualified to use the title "nurse practitioner." The board shall also~~

1 ~~issue to each qualified person a certificate evidencing that the~~
2 ~~person is qualified to use the title “nurse practitioner.”~~

3 ~~(e) A person who has been found to be qualified by the board~~
4 ~~to use the title “nurse practitioner” prior to January 1, 2005, shall~~
5 ~~not be required to submit any further qualifications or information~~
6 ~~to the board and shall be deemed to have met the requirements of~~
7 ~~this section.~~

8 ~~(d) On and after January 1, 2008, an applicant for initial~~
9 ~~qualification or certification as a nurse practitioner under this article~~
10 ~~who has not been qualified or certified as a nurse practitioner in~~
11 ~~California or any other state shall meet the following requirements:~~

12 ~~(1) Hold a valid and active registered nursing license issued~~
13 ~~under this chapter.~~

14 ~~(2) Possess a master’s degree in nursing, a master’s degree in~~
15 ~~a clinical field related to nursing, or a graduate degree in nursing.~~

16 ~~(3) Satisfactorily complete a nurse practitioner program~~
17 ~~approved by the board.~~

18 ~~(e) On and after July 1, 2016, an applicant for initial~~
19 ~~qualification or certification as a nurse practitioner shall, in~~
20 ~~addition, hold a national certification as a nurse practitioner from~~
21 ~~a national certifying body recognized by the board.~~

22 ~~SEC. 3. Section 2835.7 of the Business and Professions Code~~
23 ~~is amended to read:~~

24 ~~2835.7. (a) Notwithstanding any other law, in addition to any~~
25 ~~other practices authorized in statute or regulation, a nurse~~
26 ~~practitioner may do any of the following:~~

27 ~~(1) Order durable medical equipment. Notwithstanding that~~
28 ~~authority, nothing in this paragraph shall operate to limit the ability~~
29 ~~of a third-party payer to require prior approval.~~

30 ~~(2) After performance of a physical examination by the nurse~~
31 ~~practitioner, certify disability pursuant to Section 2708 of the~~
32 ~~Unemployment Insurance Code.~~

33 ~~(3) For individuals receiving home health services or personal~~
34 ~~care services, approve, sign, modify, or add to a plan of treatment~~
35 ~~or plan of care.~~

36 ~~(4) Assess patients, synthesize and analyze data, and apply~~
37 ~~principles of health care.~~

38 ~~(5) Manage the physical and psychosocial health status of~~
39 ~~patients.~~

1 ~~(6) Analyze multiple sources of data, identify alternative~~
2 ~~possibilities as to the nature of a health care problem, and select,~~
3 ~~implement, and evaluate appropriate treatment.~~

4 ~~(7) Establish a physical diagnosis by client history, physical~~
5 ~~examination, and other criteria, consistent with this section.~~

6 ~~(8) Order, furnish, or prescribe drugs or devices pursuant to~~
7 ~~Section 2836.1.~~

8 ~~(9) Refer patients to other health care providers as provided in~~
9 ~~subdivision (b).~~

10 ~~(10) Delegate tasks to a medical assistant pursuant to~~
11 ~~standardized procedures and protocols developed by the nurse~~
12 ~~practitioner and medical assistant, that are within the medical~~
13 ~~assistant's scope of practice.~~

14 ~~(11) Perform additional acts that require education and training~~
15 ~~and that are recognized by the nursing profession as proper to be~~
16 ~~performed by a nurse practitioner.~~

17 ~~(12) Order hospice care as appropriate.~~

18 ~~(13) Perform procedures that are necessary and consistent with~~
19 ~~the nurse practitioner's scope of practice.~~

20 ~~(b) A nurse practitioner shall refer a patient to a physician or~~
21 ~~another licensed health care provider if the referral will protect the~~
22 ~~health and welfare of the patient, and shall consult with a physician~~
23 ~~or other licensed health care provider if a situation or condition of~~
24 ~~a patient is beyond the nurse practitioner's education, training, or~~
25 ~~certification.~~

26 ~~(c) A nurse practitioner shall maintain professional liability~~
27 ~~insurance that is appropriate for his or her practice setting.~~

28 ~~SEC. 4. Section 2836.1 of the Business and Professions Code~~
29 ~~is amended to read:~~

30 ~~2836.1. (a) Neither this chapter nor any other provision of law~~
31 ~~shall be construed to prohibit a nurse practitioner from furnishing,~~
32 ~~ordering, or prescribing drugs or devices when both of the~~
33 ~~following apply:~~

34 ~~(1) The drugs or devices that are furnished, ordered, or~~
35 ~~prescribed are consistent with the practitioner's educational~~
36 ~~preparation or for which clinical competency has been established~~
37 ~~and maintained.~~

38 ~~(2) (A) The board has certified in accordance with Section~~
39 ~~2836.3 that the nurse practitioner has satisfactorily completed a~~

1 course in pharmacology covering the drugs or devices to be
2 furnished, ordered, or prescribed under this section.

3 (B) Nurse practitioners who are certified by the board and hold
4 an active furnishing number and who are registered with the United
5 States Drug Enforcement Administration, shall complete, as part
6 of their continuing education requirements, a course including
7 Schedule II controlled substances based on the standards developed
8 by the board. The board shall establish the requirements for
9 satisfactory completion of this subdivision.

10 (b) A nurse practitioner shall not furnish, order, or prescribe a
11 dangerous drug, as defined in Section 4022, without an appropriate
12 prior examination and a medical indication, unless one of the
13 following applies:

14 (1) The nurse practitioner was a designated practitioner serving
15 in the absence of the patient's physician and surgeon, podiatrist,
16 or nurse practitioner, as the case may be, and if the drugs were
17 prescribed, dispensed, or furnished only as necessary to maintain
18 the patient until the return of his or her practitioner, but in any case
19 no longer than 72 hours.

20 (2) The nurse practitioner transmitted the order for the drugs to
21 a registered nurse or to a licensed vocational nurse in an inpatient
22 facility, and if both of the following conditions exist:

23 (A) The nurse practitioner had consulted with the registered
24 nurse or licensed vocational nurse who had reviewed the patient's
25 records.

26 (B) The nurse practitioner was designated as the practitioner to
27 serve in the absence of the patient's physician and surgeon,
28 podiatrist, or nurse practitioner, as the case may be.

29 (3) The nurse practitioner was a designated practitioner serving
30 in the absence of the patient's physician and surgeon, podiatrist,
31 or nurse practitioner, as the case may be, and was in possession
32 of or had utilized the patient's records and ordered the renewal of
33 a medically indicated prescription for an amount not exceeding
34 the original prescription in strength or amount or for more than
35 one refill.

36 (4) The licensee was acting in accordance with subdivision (b)
37 of Section 120582 of the Health and Safety Code.

38 (c) Use of the term "furnishing" in this section, in health
39 facilities defined in Section 1250 of the Health and Safety Code,
40 shall include the ordering of a drug or device.

1 (d) “Drug order” or “order” for purposes of this section means
2 an order for medication which is dispensed to or for an ultimate
3 user, issued by a nurse practitioner as an individual practitioner,
4 within the meaning of Section 1306.02 of Title 21 of the Code of
5 Federal Regulations. Notwithstanding any other provision of law,
6 (1) all references to “prescription” in this code and the Health and
7 Safety Code shall include drug orders issued by nurse practitioners;
8 and (2) the signature of a nurse practitioner on a drug order issued
9 in accordance with this section shall be deemed to be the signature
10 of a prescriber for purposes of this code and the Health and Safety
11 Code.

12 SEC. 5. ~~Section 2836.2 of the Business and Professions Code~~
13 ~~is amended to read:~~

14 ~~2836.2. All nurse practitioners who are authorized pursuant to~~
15 ~~Section 2836.1 to prescribe, furnish, or issue drug orders for~~
16 ~~controlled substances shall register with the United States Drug~~
17 ~~Enforcement Administration.~~

18 SEC. 6. ~~Section 2836.3 of the Business and Professions Code~~
19 ~~is amended to read:~~

20 ~~2836.3. (a) The furnishing of drugs or devices by nurse~~
21 ~~practitioners is conditional on issuance by the board of a number~~
22 ~~to the nurse applicant who has successfully completed the~~
23 ~~requirements of paragraph (2) of subdivision (a) of Section 2836.1.~~
24 ~~The number shall be included on all transmittals of orders for drugs~~
25 ~~or devices by the nurse practitioner. The board shall make the list~~
26 ~~of numbers issued available to the California State Board of~~
27 ~~Pharmacy. The board may charge the applicant a fee to cover all~~
28 ~~necessary costs to implement this section.~~

29 ~~(b) The number shall be renewable at the time of the applicant’s~~
30 ~~registered nurse license renewal.~~

31 ~~(c) The board may revoke, suspend, or deny issuance of the~~
32 ~~numbers for incompetence or gross negligence in the performance~~
33 ~~of functions specified in Sections 2836.1 and 2836.2.~~